


FROM	NAME & TITLE	Alfred H. Foxx, Acting Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	Darius Cheek – Bureau of Water & Wastewater		

TO

DATE: September 23, 2010

Mr. David N. McClintock
 Inspector General
 Office of The Inspector General
 City Hall, Room 640

In response to the Office of the Inspector General's investigation to insure that Mr. Darius Cheek was not improperly compensated during his incarceration and to determine if the Department of Public Works (the Department) adhered to City leave policy during the time period in question the Department submits the following:

The Department has reviewed the report and finds it to be complete and accurate.

Further, the Department understands that the City currently has no policy prohibiting the use of earned leave by an employee while incarcerated. The investigation instead turns to one of appropriate requests for, supervision of, and approval of, leave requests. It is clear from the investigation that, in this instance, procedures to manage leave were not followed and that recommendations issued under a similar investigation need to be implemented and reinforced at all supervisory levels and within DPW-HR.

Mayor Rawlings-Blake's Executive Order providing a more comprehensive requirement for employees to self report arrest and incarceration – not in place during the period of this investigation – has already resulted in notification to supervisors and DPW-HR, allowing for appropriate management of these situations.

DPW has also developed a protocol for leave use and pay status that will be communicated via special training sessions for supervisory and DPW-HR staff to insure consistent implementation, and to insure that staff work as a team to provide the checks and balances that will insure compliance with City Administrative and Personnel Manuals.

Outlined here are the best practices recommended to effectively manage protracted absences:

- When an employee has been out of work for three (3) or more consecutive days the supervisor shall notify the division HR officer immediately
- The HR officer will forward the employee a FMLA packet notifying the employee of his/her federal rights. Please note that the employee must submit documentation of his/her absence immediately upon return to work pursuant to City policies and MOU Article 21 (j) for CUB and 12 (j) Article for AFSCME. Based on the documentation that is submitted, the employee may be required to have a Fit for Duty exam (FFD) before returning to work.

- If the employee has not returned to work after ten (10) days the supervisor shall inform the Division HR Officer. The HR Officer will send the employee a "letter of intent" notifying him/her to contact DPW-HR to explain his/her absence and confirm his/her intent to return to work. Most payroll personnel will be able to identify employee(s) that are not at work and are not following the approved process during this phase.
- If the employee has not returned to work after thirty (30) days the supervisor shall inform DPW-HR.
- DPW-HR may issue the employee a "pre-termination" letter notifying the employee that he/she is being recommended for termination and provide a date for a Pre-Termination conference. Please note that if an employee is absent without pay for more than 30 days, the agency may take administrative action under Civil Service 47 (e), which states:

E. Grounds for Removal By the Director. Employees who are absent without pay for a period or periods in excess of thirty (30) days in a calendar year without prior approval of the Director shall be in violation of this Rule. The Personnel Director may notify employees in violation of this Rule. Such employees who fail to make a proper request and return to work as directed by the Personnel Director within fifteen (15) days of receipt of the above shall be considered to have resigned their positions.

The Department will look to supplement this policy with required written employee requests for leave and mandate that those requests be submitted without exception.

On the issue of _____ the supervisor of Mr. Cheek, the Department will pursue disciplinary action up to and including a recommendation for termination.

We hope to further inform these recommendations with any policies that may be issued by the Department of Human Resources as recommended in the subject report.

Respectfully,


ALFRED H. FOXX
ACTING DIRECTOR

cc: Mr. Benjamin I. Meli, Jr.
Ms. M. Celeste Amato